

**REMARKS**

In the Office Action mailed June 27, 2008, the Examiner noted that claims 1-34 were pending, that claims 5-12, 18-22, 25, 26, and 30-32 have been withdrawn from consideration, and rejected claims 1-4, 13-17, 23-24, 27-29, 33 and 34. Claims 1, 3, 23, 24, 27-29, 33 and 34 have been amended and, thus, in view of the forgoing claims 1-4, 13-17, 23-24, 27-29, 33 and 34 remain pending for reconsideration which is requested. No new matter has been added. The Examiner's rejections are traversed below.

Page 2 of the Office Action rejects claims 1-4, 17, 23-24, 27-29, 33 and 34 under 35 U.S.C. § 103 over Iida and Majima. Page 3 of the Office Action rejects claims 13-16 under 35 U.S.C. § 103 over Iida, Majima and Salomaa.

Iida discusses peak position and particularly states:

While the wavelength scanning part 106 changes a wavelength of the wavelength tunable filter 101, based on the information stored in the wavelength/intensity memory part 104, the peak position detecting part 105 specifies a wavelength at which the average received light intensity becomes maximum and supplies the position of such a wavelength to the wavelength scanning part 106, whereby the wavelength is set.

(See Iida, col. 2, lines 57-64)

Majima discusses tracking a central wavelength so that the central wavelength can be modulated.

Salomaa is cited for detecting an edge of a band.

In contrast, claim 1 calls for a system that "determines existence of a signal light where a peak level of a detected light is greater than a given signal light level and a peak point of the detected light at a determined peak width from the peak level of the detected light is less than a predetermined level".

Iida, Majima and Salomaa have not been shown to teach or suggest such.

Claims 3, 23, 24, 27-29, 33 and 34 also emphasize the above-discussed feature.

It is submitted that the independent claims distinguish over the prior art and withdrawal of the rejection is requested.

The dependent claims depend from the above-discussed independent claims and are patentable over the prior art for the reasons discussed above. The dependent claims also recite additional features not taught or suggested by the prior art. For example, claim 2 calls for extraction based on the result discussed above, something not shown to be taught or suggested

by the prior art. It is submitted that the dependent claims are independently patentable over the prior art.

It is submitted that the claims are not taught, disclosed or suggested by the prior art. The claims are therefore in a condition suitable for allowance. An early Notice of Allowance is requested.

If any further fees, other than and except for the issue fee, are necessary with respect to this paper, the U.S.P.T.O. is requested to obtain the same from deposit account number 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: 12/29/8

By: /J. Randall Beckers/  
J. Randall Beckers  
Registration No. 30,358

1201 New York Ave, N.W., 7th Floor  
Washington, D.C. 20005  
Telephone: (202) 434-1500  
Facsimile: (202) 434-1501